

III. REMARKS

- **On the Office Action of November 5, 2003**

RESPONSE TO REJECTIONS

- **Rejections under 35 U.S.C. §102(b)**

- **The Examiner's Position:**

The Examiner has rejected claims 1 – 3, 15 and 16 as being unpatentable over U.S. Patent No. 5,385,344 to Miller *et al.* ("Miller '344"). The Examiner asserts that Miller '344 teaches a package amusement device comprising a box package, a detector associated with the package and operatively configured to detect change with respect to the package, a microprocessor associated with the package, and a signal generator. The Examiner further asserts that Miller '344 teaches the sense detected being sound and light.

- **Applicant's Response**

Applicant respectfully traverses the Examiner's rejection under 35 U.S.C. §102(b) asserting in part that there can be no anticipation as each of the elements of the claims is not found in the art of record. However in order to expedite reissue of this case, sought nearly 4 years ago!, the applicant has amended claims 1 and 15, from which claims 2 – 3 and 16 depend, to remove the term "box." In light of such change, and the Examiner's arguments which are directed to the "box" recitation only, Applicant respectfully asserts that the amended claims are allowable.

Applicant has also appended new claims 21- 22, which find support under Summary of Invention, including, but not limited to, col. 1, lines 61 – 66, col. 2, lines 35 – 37, and in Figs. 1, 2 and 4, and the discussion thereof in the detailed description. New claim 21 – 22 further define over Miller '344 in defining the box as a packaging box for incorporating objects and/or gifts therein, as opposed to the fabricated amusement devices of Miller '344. Further, Applicant has

recited in these claims that the detector of such claims does not comprise a triggering and actuating component packaged in separate interchangeable modules as set forth in Miller '344 (see, e.g., "Field of Invention" in Miller '344). On such bases, Applicant asserts that these claims are allowable as well.

In respect of amended claim 17, Applicant has corrected an obvious typographical error, changing "operative configure" to "operatively configured."

RESPONSE TO ALLOWANCE

- Finding of Allowable Subject Matter

- The Examiner's Position:

The Examiner has found claims 4 – 14 and 17 – 20 to be allowable.

- The Applicant's Position:

Applicant respectfully extends appreciation to the Examiner for allowance of such claims.

- **On the Office Action of June 18, 2004**

- The Examiner's Position:

The Examiner has found the reply filed on March 5, 2004 to the Office Action of November 5, 2003 as "not full responsive" as the "amendment is not in compliance with 37 CFR 1.173." The Examiner provided applicant one month from the mailing date of the notice (June 18, 2004) to "supply the omission or correction."

- The Applicant's Position:

Applicant has attempted herein to be in full compliance with the mandates of 37 CFR 1.173/MPEP 1453 and believes that this supplemental response and amendment is appropriate.

- **On the Office Action of September 8, 2004**

- The Examiner's Position:

The Examiner has found the reply filed on July 21, 2004 to be "not fully responsive" as still "not in compliance with 37 CFR 1.173." The Examiner has required an extension fee to be paid to correct the error.

- The Applicant's Position:

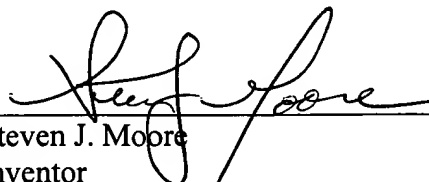
Applicant has attempted herein to be in full compliance with the mandates of 37 CFR 1.173/MPEP 1453 and believes that this supplemental response and amendment is appropriate. While Applicant traverses the rejection and asserts that the USPTO is erroneously reading its own regulations, Applicant has amended the claims in compliance with the USPTO's methodology.

CONCLUSIONS

Accordingly, it is respectfully submitted that the claims under consideration are clearly patentable over the references of record. It is submitted that the above-identified patent application is in condition for allowance. Given the nearly 4 year delay in the USPTO's response to Applicant's reissue request, Applicant earnestly and courteously requests early notification of the allowability of the pending claims.

Respectfully submitted,

Date: September 30, 2004



Steven J. Moore
Inventor
Tel.: (203)727-1593